REPRESENTATIVE FOR PETITIONER:

Vanessa Purdom, pro se

REPRESENTATIVE FOR RESPONDENT:

Catherine Lane, Knox County Assessor

BEFORE THE INDIANA BOARD OF TAX REVIEW

Vanessa Purdom,)	Petition No.:	42-023-13-3-5-00001
Petitioner,)	Parcel No.:	42-12-25-300-007.000-023
v.)	County:	Knox
Knox County Assessor,)	Township:	Vincennes
Respondent.)	Assessment Y	Year: 2013
11		e Final Determin Tax Assessmen	nation of the t Board of Appeals

September 2, 2015

FINAL DETERMINATION

The Indiana Board of Tax Review ("Board"), having reviewed the facts and evidence, and having considered the issues, now finds and concludes the following:

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Introduction

1. Did Petitioner prove that she was entitled to a homestead deduction on the subject property for the 2013 assessment year?

PROCEDURAL HISTORY

- Vanessa Purdom ("Petitioner") initiated her appeal with the Knox County Assessor ("Respondent") on April 17, 2014. On June 17, 2014, the Knox County Property Tax Assessment Board of Appeals ("PTABOA") issued its determination denying the petition. On July 9, 2014, Petitioner timely filed her Form 133 petition with the Board.
- 3. On June 4, 2015, the Board's Administrative Law Judge ("ALJ"), Jacob Robinson, held a hearing on the petition. Neither the Board nor the ALJ inspected the subject property.

HEARING FACTS AND OTHER MATTERS OF RECORD

4. The following people were sworn as witnesses and testified at the hearing:

For Petitioner: Vanessa Purdom

For Respondent: Catherine Lane, Knox County Assessor

Chris Moon, Employee - Knox County Auditor's Office Beth Worland, Employee - Knox County Treasurer's Office¹

5. The Petitioner submitted the following exhibits:

Petitioner Exhibit 1: Form 133 Petition for Correction of Error filed April 17,

2014

Petitioner Exhibit 2: Affidavit of Vanessa Purdom dated July 9, 2014

Petitioner Exhibit 3: Minutes of the Vincennes University Paralegal Advisory

Board dated November 21, 2012

Petitioner Exhibit 4: State of Indiana Office of the Governor 2012 State Holiday

Memorandum

Petitioner Exhibit 5: State Form 53569 – "Special Message to Property Owner"

for the subject property dated March 28, 2014

Petitioner Exhibit 6: Taxpayer's Copy of 2013 Payable 2014 Tax Bill for the

subject property

Petitioner Exhibit 7: State Form 5473 – "Claim for Homestead Property Tax

Standard/Supplemental Deduction" filed April 8, 2014

Petitioner Exhibit 8: Photocopy of Ind. Code § 6-1.1-12-17.8 and Ind. Code § 6-

1.1-22-8.1(b)(9)

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¹ Amy Conner, Knox County Deputy Assessor, was sworn, but did not testify.

6. Respondent submitted the following exhibits:

Respondent Exhibit 1: State Form 46021 – "Sales Disclosure Form" for

Petitioner's purchase of subject property dated March 14,

2011

7. The following additional items are recognized as part of the record:

Board Exhibit A: Form 133 petition with attachment

Board Exhibit B: Notice of Hearing Board Exhibit C: Hearing Sign-In Sheet

8. The property under appeal is a single family residence located at 3052 E. State Road 61 in Vincennes.

JURISDICTIONAL FRAMEWORK

9. The Board is charged with conducting an impartial review of all appeals concerning: (1) the assessed valuation of tangible property, (2) property tax deductions, (3) property tax exemptions, and (4) property tax credits that are made from a determination by an assessing official or a county property tax assessment board of appeals to the Board under any law. Ind. Code § 6-1.5-4-1(a). All such appeals are conducted under Ind. Code § 6-1.1-15. *See* Ind. Code § 6-1.5-4-1(b); Ind. Code § 6-1.1-15-4.

OBJECTIONS

10. Petitioner made several objections during the course of the hearing. First, Petitioner objected to a line of questioning from Respondent regarding Petitioner's mortgage deduction application on relevancy grounds since the hearing concerned the homestead deduction. The ALJ did not rule on the objection during the hearing. The Board finds Petitioner's view of relevance to be too narrow. Respondent explained that she was simply asking about the mortgage deduction "because most people tend to keep that paperwork together" and she thought that if Petitioner "had one maybe you would have the other." Because one of the issues before the Board is whether Petitioner filed a claim

for the homestead deduction, the Board finds the questioning to be relevant and overrules Petitioner's objection.

- 11. Second, Petitioner objected to admission of Respondent's Exhibit 1, a copy of the sales disclosure form documenting Petitioner's original purchase of the subject property. Petitioner asserted that the sales disclosure form was not relevant to her claim for the homestead deduction. However, as Respondent explained, the sales disclosure form is one method for a taxpayer to apply for the homestead deduction. In fact, pursuant to Ind. Code § 6-1.1-12-44, this sales disclosure form could have been used to apply for the homestead deduction. The ALJ did not rule on the objection during the hearing. Again, because one of the issues before the Board is whether Petitioner filed a claim for the homestead deduction, the Board finds the exhibit to be highly relevant and in no way prejudicial to Petitioner. Consequently, Petitioner's objection is overruled and Respondent's Exhibit 1 is admitted.
- 12. Finally, Petitioner objected to a portion of Respondent's closing statement because she claimed that there was new evidence being presented. Petitioner claimed that the witnesses Respondent was referring to in her statement had not testified during the hearing. The ALJ questioned Respondent regarding the identity of the witnesses she was referencing. Respondent confirmed that the witnesses she was referring to were the same witnesses that had testified during the hearing. The ALJ did not rule on the objection, but allowed Respondent to finish her closing statement. Based on Respondent's confirmation, the Board finds no merit to the assertion that there was new evidence being offered by Respondent and overrules Petitioner's objection.

PETITIONER'S CONTENTIONS

13. Petitioner contends that through an error or omission by the Knox County Auditor's Office ("Auditor") she was not given credit for a homestead deduction for the 2013

assessment year.² Petitioner makes three contentions related to her claim. First, she alleges that she was eligible for a homestead deduction for the 2013 assessment year. Second, she alleges that she filed a claim for a homestead deduction for the 2013 assessment year on November 21, 2012. Finally, she alleges that the Auditor failed to mail the statutorily required notice of the proposed termination of the homestead deduction prior to removing the deduction for the 2013 assessment year. *Purdom testimony; Pet'r Ex. 1.*

- 14. Petitioner offered her own affidavit dated July 9, 2014, which states that she was eligible for the deduction from March of 2011 to the present because the subject property was her and her husband's principal place of residence since that time. She further asserts that she did not own, occupy or reside within any other property in Indiana. *Purdom testimony; Pet'r Ex. 2.*
- 15. Petitioner claims that she delivered her homestead deduction claim form to the Auditor's office on November 21, 2012.³ While she has been unable to locate a receipt for the transaction, she offered testimony and other evidence to demonstrate that she was indeed in the Knox County Courthouse on November 21, 2012. She offered the minutes from a meeting of the Vincennes University Paralegal Advisory Committee held on November 21, 2012, in the Knox County Courthouse Law Library. She testified that she attended the meeting and filed for the homestead deduction sometime on that same day. She also introduced a copy of the 2012 State Holiday Memorandum to show that November 21, 2012 was the day before Thanksgiving. She contends that "things are quite chaotic in any office" the day before Thanksgiving. Thus, she maintains that her homestead

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² Both the parties and their witnesses used the terms "homestead deduction" and "homestead exemption" interchangeably throughout their respective presentations and testimony. There is no statute that exempts homesteads from taxation. The Board infers that the parties are referring to the standard deduction for homesteads provided for under Ind. Code § 6-1.1-12-37, and will use the term "homestead deduction" hereinafter.

³ The Board notes that during cross-examination Mrs. Purdom admitted it was possible that she forgot to file the application. Further, when questioned about the homestead deduction form she allegedly turned into the Auditor, she stated "[i]t seems like I had a form. I do not know what the form was, but I know it was to get my homestead exemption. I think the form may have been part of my closing documents, but I don't know for sure."

deduction paperwork may have been lost or misplaced because it was set aside to be processed on the following Monday. *Purdom testimony; Pet'r Exs. 3, 4.*

- 16. Petitioner offered copies of State Form 53569 "Special Message to Property Owner" and the 2013 Payable 2014 tax bill for the subject property to demonstrate the tax burden placed on Petitioner due to the loss of the homestead deduction. In the 2013 tax bill, when the homestead deduction was applied, Petitioner's tax burden was \$4,396.64. Due to the loss of the deduction, her tax bill for 2014 was \$8,660.48. She complains that this is a "huge burden on the taxpayer for an error or omission that was not the fault of the taxpayer," and that it is not "the legislature's intent to penalize taxpayers with such a high tax burden." She asserts that the purpose of the homestead deduction statute is to ensure that taxpayers do not have homestead deductions on two separate residences. *Purdom testimony; Pet'r Exs. 5, 6.*
- 17. Upon being notified of the 2013 assessment, Petitioner and her husband visited the Auditor's office and filed the proper paperwork. She offered a copy of the Claim for Homestead Property Tax Standard/Supplemental Deduction filed with the Auditor on April 8, 2014. She and her husband would not leave the Auditor's office until someone gave them some form of documentation. This is in contrast to when Petitioner purportedly submitted the original claim on November 21, 2012, by merely handing in the paper and not waiting for a receipt. *Purdom testimony; Pet'r Ex.* 7.
- 18. Finally, Petitioner presented a photocopy containing portions of Ind. Code § 6-1.1-12-17.8 and Ind. Code § 6-1.1-22-8.1(b)(9). Petitioner argues that the Auditor failed to mail the notice required by Ind. Code § 6-1.1-12-17.8 prior to removing the homestead deduction for the 2013 assessment year. Petitioner testified that she and her husband did not receive any notification that the deduction would be terminated by the Auditor until they received the tax bill and noticed the increase in their tax burden. *Purdom testimony; Pet'r Ex.* 8.

 $^{^4}$ The 2013 tax bill is based on the assessment for March 1, 2012. The 2014 tax bill is based on the assessment for March 1, 2013.

RESPONDENT'S CONTENTIONS

- 19. Respondent contends that Petitioner failed to file a claim for the homestead deduction for the 2013 assessment year. She believes that the Auditor followed the correct procedures. If a claim had been filed with the Auditor, then Petitioner should be able to produce a file-marked receipt for the transaction. Because Petitioner has not produced a receipt and the Auditor was unable to locate a copy of the deduction form, Respondent does not think it ever existed and believes that this dispute was likely caused by an oversight on the part of Petitioner. *Lane testimony*.
- 20. To support her contentions, Respondent elicited testimony from two witnesses familiar with the Auditor's procedures concerning homestead deductions. Beth Worland worked in the Auditor's office from May 1998 to July 2013 and testified that the procedure for taxpayers to file for a homestead deduction historically required the homeowner to come to the Auditor's office. The Auditor's employees would fill out the paperwork at the counter, stamp it, and tear off the bottom section to hand to the homeowner as a receipt. The homeowners were told to keep the receipt so, if the deduction was not applied the following year, they could bring in the receipt for a correction. Ms. Worland thinks that this procedure is still in place. She also stated that the sales disclosure form and the homestead deduction form are the only two ways to claim the deduction, although there was a brief period of time when the law changed and "pink forms" were mailed out to every homeowner in Indiana. Worland testimony.
- 21. Chris Moon, a current employee in the Auditor's office, testified that the majority of new homeowners still come into the office to apply for the homestead deduction using the Auditor's forms. The Auditor's employees look up the taxpayers' new address on the computer to verify the address and legal description. The Auditor now uses the last five digits of both the social security numbers and the driver's license numbers for everyone in the household claiming the homestead deduction to verify eligibility on the Department of Local Government Finance's ("DLGF") website. The sales disclosure

form is another way for homeowners to apply for the homestead deduction, and it is usually submitted when the deed is recorded. When a sales disclosure form is received, the Auditor's employees make sure it has all of the required information, and the deduction is applied once the property has changed hands. All of the documents are scanned into the proper file, and the homestead deductions are entered into the DLGF program. *Moon testimony*.

22. Mr. Moon further testified that he was not in the office when Petitioner and her husband came into the office to discuss their homestead deduction. However, he did participate in searching the Auditor's office for the county's copy of the form they allegedly turned in. Every spring, from January to April, the Auditor's staff goes through every single Knox County property and matches the physical copy of the deduction with the copy scanned on the Auditor's computer, and verifies the information from the DLGF program. Mr. Moon recalled the Auditor's office once lost a form, but the taxpayer was able to produce their copy of the document to verify it was filed. *Moon testimony*.

ANALYSIS

- 23. Petitioner claims that through an error or omission by the Auditor, she was not given credit for a homestead deduction for the 2013 assessment year. The standard deduction for homesteads under Ind. Code § 6-1.1-12-37 provides that "[e]ach year a homestead is eligible for a standard deduction from the assessed value of the homestead for an assessment date." Ind. Code § 6-1.1-12-37(b).
- 24. There is no dispute that the subject property meets the requirements to be a "homestead" as defined in Ind. Code § 6-1.1-12-37(a)(2) because it is Petitioner's principal place of residence and she and her husband own it. The matter in dispute is whether the Petitioner properly claimed the deduction under Ind. Code § 6-1.1-12-37(e).
- 25. Petitioner contends that she filed a claim for the homestead deduction for the 2013 assessment year on November 21, 2012. While sworn testimony from someone with Vanessa Purdom Findings and Conclusions

direct and actual knowledge can constitute sufficient evidence, in this case the Board finds that Respondent effectively rebutted Petitioner's testimony. Although Petitioner offered testimony and exhibits supporting the assertion that she was indeed in the Knox County Courthouse on November 21, 2012, on cross-examination, she admitted it was possible that she forgot to file the application. Further, when questioned about the homestead deduction form she allegedly turned into the Auditor, she stated "[i]t seems like I had a form. I do not know what the form was, but I know it was to get my homestead exemption. I think the form may have been part of my closing documents, but I don't know for sure." Petitioner's uncertainty concerning which form she used to allegedly apply for the homestead deduction or whether she even had a form undermines her credibility.

- 26. Additionally, Respondent's witness, Mr. Moon, testified that every spring the Auditor's employees are required to review the physical copies of the homestead deduction forms and the copies scanned into the Auditor's computer, and check them against the DLGF program to make sure the deduction forms correspond. Based on these review procedures, he testified that Petitioner's form "would have been caught at some point or another." He also testified that he personally participated in searching the Auditor's office, to no avail, for the form Petitioner allegedly submitted. Respondent's other witness, Beth Worland, testified that when taxpayers come into the Auditor's office to file for a deduction in person, the Auditor's employees tear off the bottom section of the deduction form to hand to the homeowner as a receipt. She also testified that the homeowners are instructed to retain the receipt.
- 27. Petitioner admitted that she did not wait for a receipt, and did not think she needed one the day before Thanksgiving. She also admitted to not providing the Auditor's office with a self-addressed stamped envelope for return of a receipt. On cross-examination, she admitted that she did not "have any file-marked copies of anything for November 21, 2012." The fact that the Auditor's office was unable to locate a homestead deduction form, together with the fact that Petitioner was unable to locate a receipt or a file-marked

copy of the form from her alleged filing further supports Respondent's contention that the form was never actually filed.

- While Petitioner maintains that she filed for her homestead deduction on November 21, 2012 and it was lost or misplaced by the Auditor's office, the Board is unable to reach that conclusion. Based on the evidence presented, the Board finds that Petitioner failed to prove that she filed a certified statement under Ind. Code § 6-1.1-12-37(e) claiming the homestead deduction for 2013. However, there are two exceptions provided for in Ind. Code § 6-1.1-12-37(e) that allow a taxpayer to claim a homestead deduction without filing a certified statement. One exception allows a purchaser of a homestead to file a sales disclosure form with the county auditor in lieu of the certified statement. Ind. Code § 6-1.1-12-44. The other allows for an automatic carryover of the homestead deduction from one year to the next. Ind. Code § 6-1.1-12-17.8.
- 29. The Board will first address whether Petitioner filed a sales disclosure form that met the requirements of Ind. Code § 6-1.1-12-44. That statute provides, in part:
 - (a) A sales disclosure form under IC 6-1.1-5.5:
 - (1) that is submitted:
 - (A) as a paper form; or
 - (B) electronically;

on or before December 31 of a calendar year to the county assessor by or on behalf of the purchaser of a homestead (as defined in section 37 of this chapter) assessed as real property;

- (2) that is accurate and complete;
- (3) that is approved by the county assessor as eligible for filing with the county auditor; and
- (4) that is filed:
 - (A) as a paper form; or
 - (B) electronically;

with the county auditor by or on behalf of the purchaser; constitutes an application for the deductions provided by sections...37 of this chapter with respect to property taxes first due and payable in the calendar year that immediately succeeds the calendar year referred to in subdivision (1).

- 30. While Petitioner offered no evidence and little argument on this issue, Respondent introduced a copy of the sales disclosure form documenting Petitioner's original purchase of the subject property on March 14, 2011. This form is a sales disclosure form prescribed by the DLGF pursuant to Ind. Code § 6-1.1-5.5 and it clearly could have served as an application for the homestead deduction. However, "[i]f the transferee uses the form to claim the standard deduction under IC 6-1.1-12-37, the information required for a standard deduction under IC 6-1.1-12-37" must be included. Ind. Code § 6-1.1-5.5-5(a)(18). Thus, the form needs to include the information required by subdivisions (1) through (4) of Ind. Code § 6-1.1-12-37(e). Here, Petitioner and her husband failed to provide any of the last five digits of their social security numbers, driver's license numbers, state identification cards, or federal control numbers on the form as required by subdivision (4). Ind. Code § 6-1.1-12-37(e)(4). Additionally, Petitioner and her husband failed to complete question No. 2 regarding whether they had another homestead in Indiana.⁵ The Board therefore concludes that the form did not comply with the requirements of Ind. Code § 6-1.1-12-44(a)(2) because it was not accurate and complete at the time it was submitted to the county. Consequently, the Board finds that Petitioner's sales disclosure form did not serve as an application for the homestead deduction under Ind. Code § 6-1.1-12-44.
- 31. The Board will next address whether Petitioner qualified for the automatic carryover of the homestead deduction under Ind. Code § 6-1.1-12-17.8, and a related issue raised by Petitioner concerning whether this statute required the Auditor to mail notice of the proposed termination of the homestead deduction for the 2013 assessment year to Petitioner. Ind. Code § 6-1.1-12-17.8 provides, in relevant part:
 - (a) An individual who receives a deduction provided under section...37 of this chapter in a particular year and who remains eligible for the deduction in the following year is not required to file a statement to apply for the deduction in the following year. However, for purposes of a deduction under section 37 of this chapter, the county auditor may, in the county auditor's

⁵ The Board also notes that Petitioner testified under cross-examination that the sales disclosure form was possibly signed by her closing agent because it "doesn't look like my signature."

discretion, terminate the deduction for assessment dates after January 15, 2012, if the individual does not comply with the requirement in IC 6-1.1-22-8.1(b)(9) (expired January 1, 2015), as determined by the county auditor, before January 1, 2013. Before the county auditor terminates the deduction because the taxpayer claiming the deduction did not comply with the requirement in IC 6-1.1-22-8.1(b)(9) (expired January 1, 2015) before January 1, 2013, the county auditor shall mail notice of the proposed termination of the deduction to:

- (1) the last known address of each person liable for any property taxes or special assessments, as shown on the tax duplicate or special assessment records; or
- (2) the last known address of the most recent owner shown in the transfer book.

Ind. Code § 6-1.1-12-17.8(a).

32. In this case, for Petitioner to qualify for an automatic carryover of the homestead deduction into the 2013 assessment year, she needed to be the individual who received the homestead deduction in the 2012 assessment year, and she needed to remain eligible for it in the 2013 assessment year. While Petitioner provided little testimony on this point, she did offer Petitioner's Exhibit 5, which is a copy of State Form 53569 – "Special Message to Property Owner." The form shows that both a standard and a supplemental homestead deduction were applied to the subject property for the 2012 assessment. However, Petitioner admitted on cross-examination that the homestead deduction was still being applied to the subject property under the prior homeowner's name. Thus, while Petitioner received the benefit of the automatic carryover of the deduction, Petitioner was not the "individual" who received the homestead deduction in 2012. Consequently, Petitioner did not satisfy the requirements necessary to qualify for the automatic carryover provision under section 17.8(a).

Vanessa Purdom Findings and Conclusions Page 12 of 15

⁶ In Indiana, property taxes are due and payable in two (2) equal installments on May 10 and November 10 of the year following an assessment. Ind. Code § 6-1.1-22-9(a). Thus, the 2013 taxes and deductions shown on Petitioner's Exhibit 5 are for the March 1, 2012 assessment date.

- 33. Furthermore, pursuant to section 37(e), the exception provided in section 17.8(a) is subject to Ind. Code § 6-1.1-12-45, which states, in relevant part:
 - (a) Subject to subsections (b) and (c), a deduction under this chapter applies for an assessment date and for the property taxes due and payable based on the assessment for that assessment date, regardless of whether with respect to the real property...
 - (1) the title is conveyed one (1) or more times...after that assessment date and on or before the next succeeding assessment date.
 - (c) A deduction applies under subsection (a) for only one year. The requirements of this chapter for filing a statement to apply for a deduction under this chapter apply to subsequent years.

Ind. Code § 6-1.1-12-45 (emphasis added).

- Again, section 45(a) provides that a new owner does not lose a deduction that the prior owner already had in place for the year the purchase takes place simply because that purchase was consummated after the assessment date for that year. Ind. Code § 6-1.1-12-45(a). However, section 45(c) limits such a deduction to the year of the original purchase, and specifically requires new owners to file a statement to apply for the deduction in subsequent years. Ind. Code § 6-1.1-12-45(c). Here, Petitioners purchased the subject property from the prior owner on March 14, 2011. Thus, while Petitioner was entitled to the benefit of the prior owner's homestead deduction for the 2011 assessment year, she was still required to file a certified statement meeting the requirements of Ind. Code § 6-1.1-12-37(e) or an application for the homestead deduction under Ind. Code § 6-1.1-12-44 in order to claim the deduction for any subsequent year. As discussed above, Petitioner failed to prove that she filed such a certified statement or sales disclosure form for the 2013 assessment year.
- 35. Petitioner also contends that Ind. Code § 6-1.1-12-17.8(a) required the Auditor to mail her notice of the proposed termination. While, as the owners, Petitioner would have been the proper recipient of any notice of a proposed termination under Ind. Code § 17.8(a), Petitioner offered no evidence to establish that the Auditor terminated the homestead deduction in 2013 because of Petitioner's failure to comply with Ind. Code 6-1.1-22-

8.1(b)(9). Thus, the Board concludes that Petitioner failed to prove she was entitled to notice of the proposed termination of the homestead deduction under Ind. Code § 6-1.1-12-17.8(a).

36. While the Board sympathizes with Petitioner to some extent given her apparent eligibility for the homestead deduction, taxpayers must comply with the statutory requirements for claiming a homestead deduction by filing the proper application. Petitioner failed to prove that she properly applied for the homestead deduction for the year under appeal. Thus, the Board concludes that Petitioner was not entitled to receive the homestead deduction for the 2013 assessment year.

SUMMARY OF FINAL DETERMINATION

In accordance with the above findings and conclusions, the Board finds in favor of Respondent. The Petitioner is not entitled to receive a homestead deduction on the subject property for the 2013 assessment year.

This Final Determination of the above captioned matter is issued by the Board on the date first
written above.

Chairman, Indiana Board of	Tax Review
Commissioner, Indiana Boa	rd of Tax Review
	rd of Tax Review

⁷ The Board notes that Petitioner filed a claim for the homestead deduction with the Auditor on April 8, 2014 using State Form 5473 – "Claim for Homestead Property Tax Standard/Supplemental Deduction". However, because it was filed after January 5, 2014, it cannot serve as an application for 2013. Ind. Code § 6-1.1-12-37(e).

- APPEAL RIGHTS -

You may petition for judicial review of this final determination under the provisions of Ind. Code § 6-1.1-15-5 and the Indiana Tax Court's rules. To initiate a proceeding for judicial review you must take the action required not later than forty-five (45) days after the date of this notice. The Indiana Code is available on the Internet at http://www.in.gov/legislative/ic/code. The Indiana Tax Court's rules are available at http://www.in.gov/judiciary/rules/tax/index.html.